REMARKS

Claims 1-14 are pending in this application. Claims 1-4, 7, 8-11 and 14 have been amended. No new matter has been added.

Claims 1-5, 7-12, and 14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Pat. No. 6,258,600 (hereinafter "Zhang"). Applicant respectfully traverses the rejection, as Zhang is not a proper reference under 35 U.S.C. § 102(b).

35 U.S.C. §102(b) recites:

> A person shall be entitled to a patent unless...
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States...

As will be appreciated, for a printed publication to qualify as prior art under 35 U.S.C. § 102(b), it must have been publicly available "more than one year prior to the date of application for patent in the United States." Zhang, however, became publicly available (i.e., issued) on July 10, 2001, one day prior to the July 11, 2001 filing date of the present application. Accordingly, Zhang is not a proper reference under 35 U.S.C. § 102(b). Applicants further note that inasmuch as Zhang does not qualify as prior art under 35 U.S.C. § 102(b), it also does not qualify as prior art under 35 U.S.C. § 103(a). See MPEP 2141.01 ("Before answering Graham's 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. § 102").

In view of the preceding remarks, Applicant respectfully requests withdrawal of this rejection.

Claims 1-14 stand rejected under 35 U.S.C. 112, first paragraph, on the basis that the term "or bioequivalents thereof" fails to comply with the written description requirement, apparently on the basis that there allegedly are an insufficient number of representative species of such compounds, citing the Guidelines on Written Description in support of its assertion. However, it is not required that applicant set forth extensive lists of specific metabolites that are

bioequivalents. Rather, the standard, as set forth in the Guidelines, and cited by the Office Action, is:

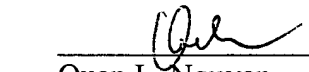
> ... What constitutes a "representative number" is an inverse function of the skill and knowledge in the art. Satisfactory disclosure of a "representative number" **depends on whether one of skill in the art would recognize that applicant was in possession of the necessary common attributes or features of the elements possessed by the members of the genus in view of the species disclosed** ...

(emphasis added).

Contrary to the apparent assertion of the Office Action, Applicant has provided a specific definition of "bioequivalents" (cited by the Office Action), which clearly sets forth the common attributes and features of such equivalents, and the Office Action has not provided any evidence at all that those of skill in the art would fail to "recognize that applicant was in possession of the necessary common attributes or features of the elements possessed by the members of the genus in view of the species disclosed." Accordingly, the claim language is believed to be proper. Nevertheless, solely to advance prosecution, Applicant has amended the claim to remove the term "or bioequivalent thereof." Accordingly, Applicant respectfully requests withdrawal of the rejection.

Accordingly, Applicants respectfully assert that the claims are in condition for allowance and early notice thereof is earnestly solicited. Should the Office further reject the present claims under 35 U.S.C. § 102/103, Applicants respectfully wish to point out that such a new ground of rejection must properly be made in a non-final Office Action.

Respectfully submitted,



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